

Court of Appeals, State of Michigan

ORDER

DAVID GEDDES v LAURA LYNN DEBOLSKI

Docket No. 288326

LC No. 07-000697-NI

William B. Murphy
Presiding Judge

Jane E. Markey

Douglas B. Shapiro
Judges

The Court orders that the application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review.

Markey, J., would vacate the circuit court's September 24, 2008, order denying summary disposition to defendant on the issue of whether plaintiff can recover noneconomic damages under the no fault act, and remand with direction that an order granting the motion be entered. MCL 500.3135(1) permits recovery for such damages "only if the injured person has suffered death, serious impairment of body function, or permanent serious disfigurement." The trial court erred in finding the existence of a genuine issue of material fact on whether any impairment suffered by plaintiff affected his general ability to lead his normal life. MCR 2.116(C)(10); MCL 500.3135(7). The evidence established that any such effect was de minimus, which is insufficient for recovery. *Kreiner v Fischer*, 471 Mich 109, 133; 683 NW2d 611 (2004). The trial court also erred in finding a genuine issue of material fact as to the seriousness of the alleged scarring. The evidence submitted established that the scar was "hardly discernible," and so it does not qualify as "permanent serious disfigurement." *Petaja v Guck*, 178 Mich App 577, 579-580; 444 NW2d 209 (1989).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR 10 2009

Date

Sandra Schultz Mengel
Chief Clerk